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to the OHA at the address provided in § 1003.11.

(c) A hearing may be convened only after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(d) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceeding. A transcript of the hearing will be prepared.

(e) If material factual issues remain in dispute after an application or appeal has been filed, the Director of the OHA or his designee may issue an order convening an evidentiary hearing in which witnesses shall testify under oath, subject to cross-examination, for the record and in the presence of a Presiding Officer. A Motion for Evidentiary Hearing should specify the type of witness or witnesses whose testimony is sought, the scope of questioning that is anticipated, and the relevance of the questioning to the proceeding. A motion may be summarily denied for lack of sufficient specificity, because an evidentiary hearing would place an undue burden on another person or the DOE, or because an evidentiary hearing would cause undue delay.

(f) A Motion for Evidentiary Hearing must be served on any person from whom information is sought and on parties to the underlying administrative action. Any person who wishes to respond to a Motion for Evidentiary Hearing must do so within ten days of service.

(g) In reaching a decision with respect to a request for a hearing or motion filed under this subpart, the OHA shall consider all relevant information in the record. If an order is issued

granting a hearing or evidentiary hearing, in whole or in part, the order shall specify the parties, any limitations on the participation of a party, and the issues to be considered. An order of the OHA issued under this section is an interlocutory order which is subject to further administrative review or appeal only upon issuance of a final Decision and Order in the proceeding concerned.

(h) At any evidentiary hearing, the parties shall have the opportunity to present material evidence that directly relates to a particular issue set forth for hearing. The Presiding Officer may administer oaths or affirmations, rule on objections to the presentation of evidence, receive relevant material, require the advance submission of documents offered as evidence, dispose of procedural requests, determine the format of the hearing, modify any order granting a Motion for Evidentiary Hearing, direct that written motions, documents or briefs be filed with respect to issues raised during the course of the hearing, ask questions of witnesses, issue subpoenas, direct that documentary evidence be served upon other parties (under protective order if such evidence is deemed confidential) and otherwise regulate the conduct of the hearing.

Subpart G—Private Grievances and Redress

§ 1003.70 Purpose and scope.

The OHA shall receive and consider petitions that seek special redress relief or other extraordinary assistance as provided for in the Federal Energy Administration Act of 1974, Section 21 (15 U.S.C. 780), apart from or in addition to the other proceedings described in this part. This subpart may also apply if cross referenced in another DOE rule or regulation, or in a DOE delegation of authority. Petitions under this subpart shall include those seeking special assistance based on an assertion that DOE is not complying with its rules, regulations, or orders.

§ 1003.71 Who may file.

Any person may file a petition under this subpart who is adversely affected by any DOE rule, regulation or order

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subject to 15 U.S.C. 780 or who is so authorized by a program rule or regulation or a DOE delegation of authority.

§ 1003.72 What to file.

The person seeking relief under this subpart shall file a "Petition for Special Redress or Other Relief," which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.73 Where to file.

A petition shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.74 Notice.

(a) The person filing the petition, except a petition that asserts that the DOE is not complying with agency rules, regulations, or orders, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the petitioner as a person who would be aggrieved by the OHA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the OHA within 10 days. The copy filed with the OHA shall include certification that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, the petitioner shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) The OHA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who would be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the OHA regarding a petition filed under his subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the petitioner. The person shall certify to the OHA that he has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

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The petition shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the OHA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by DOE's position. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the petition shall be submitted to the OHA upon its request.

§ 1003.76 OHA evaluation of request.

(a)(1) The OHA may initiate an investigation of any statement in a petition